

Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations,
(Douglas, Unionville and Tifton,
Georgia)

) MM Docket No. 93-316
)
) RM-8403
)
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To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

REPLY COMMENTS

Tifton Broadcasting Corporation ("TBC"), by and through counsel, and pursuant to §1.405 of the Commission's Rules (47 C.F.R. §1.405), hereby submits its Reply Comments on the "Comments and Counterproposal of Orchon Media, Inc.," submitted in the above-referenced rulemaking proceeding.¹ In support whereof, the following is shown:

1. In its original Petition For Rulemaking, Orchon Media, Inc. ("Orchon") asked the Commission to reallocate Channel 223A from Douglas, Georgia, to Unionville, Georgia, and to upgrade the allotment to Channel 223C3. In the Notice of Proposed Rulemaking 9 FCC Rcd 154 (1994), the Commission questioned whether Unionville, Georgia, would qualify as a "community" for allotment purposes. In separately filed

¹ These Reply Comments are timely-filed. On January 18, 1995, the Commission issued a Public Notice, Report No. 2052, announcing that Orchon's Counterproposal had been filed and stating that Reply Comments should be filed within 15 days or by February 2, 1995.

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Comments, both TBC and another party echoed the Commission's concerns and argued that Unionville, Georgia did not qualify as a "community."

2. Orchon reconsidered its original proposal and filed a Counterproposal asking that the Commission disregard its original allotment plan and, instead, reallocate Channel 223A from Douglas to the community of Tifton, Georgia, and upgrade the allotment to Channel 223C3. Orchon argued that reallocating Channel 223A to Tifton would not result in a loss of service to the community of Douglas, since its station is unbuilt and not yet operational, and would create a net gain of more than 50,000 persons that would receive new service. See Orchon's Counterproposal at p. 6.

3. The fact that Orchon's new FM station is not yet built and operational does not change the fact that the citizens of Douglas, Georgia, will be losing one of their media voices if Orchon's proposal is approved. The Douglas allotment was approved by the Commission and Orchon, as the subsequent permittee of the station, should follow through with its proposal to build and operate a new FM station in that community. A review of the coverage map supplied in Orchon's Counterproposal reveals that it would not be able to provide the proper city grade coverage to the entire community of Douglas, Georgia, from its proposed tower site northeast of Tifton, as required by §73.315 of the Commission's rules. As such, it appears that Orchon is "community-shopping," seeking to find a city or town to designate as its station's community of license while, at the same time, satisfying the Commission's city grade coverage rule. Its actions in this proceeding, first proposing to reallocate Channel 223A to Unionville and later changing its plan and seeking a reallocation to Tifton, demonstrate that Orchon is not serious about serving the citizens of Tifton, Georgia,

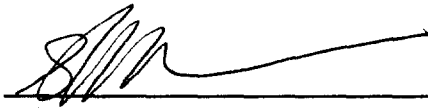
and that it is merely seeking a community that will fit its station's engineering needs. As such, the Commission should reject Orchon's Counterproposal as contrary to the public interest.

4. More importantly, Orchon has not shown that it is precluded from upgrading its FM station on Channel 223A at Douglas. While Orchon demonstrates that an upgrade will provide additional service, it has not shown why reallocation of Channel 223 to a new community is necessary to undertake such an upgrade. What Orchon fails to note is that a Class C3 upgrade of Channel 223 at Douglas would also provide new service to a large area and population. Not surprisingly, Orchon did not bother to consider such a convenient option. In Modification of FM and TV Authorizations (New Community of License), 4 FCC Rcd 4870, ¶24 (1989), recon. granted in part, denied in part, 5 FCC Rcd 7094 (1990), the Commission concluded that its previous policy permitting changes to a station's community of license was precluding beneficial upgrades. By modifying this policy to protect licensees seeking to change their station's community of license from outside expressions of interest, the Commission believed that licensees might be able to propose upgrades that were otherwise not available to them. Id. In this case, Orchon has failed to show why a reallocation of spectrum from one community to another is necessary for it to upgrade its station and, as such, the Commission should deny its Counterproposal.

5. In sum, Orchon has not shown that the public would benefit from its proposed reallocation of Channel 223 from Douglas to Tifton. Without such a showing, the Commission should deny Orchon's Counterproposal.

Respectfully submitted,

TIFTON BROADCASTING CORPORATION

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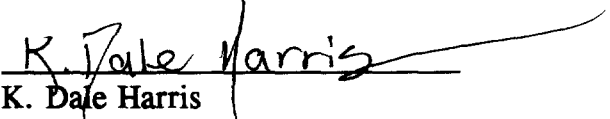
February 2, 1995

CERTIFICATE OF SERVICE

I, K. Dale Harris, a legal assistant in the law firm of Smithwick & Belendiuk, P.C., certify that on this 2nd day of February, 1995, copies of the foregoing were mailed via first class mail, postage pre-paid, to the following:

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